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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,257	01/31/2000	Richard C Worrell	2151	4623

25280 7590 04/09/2003

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EXAMINER
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SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 04/09/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/495,257

Applicant(s)

WORRELL ET AL.

Examiner

Lynda M Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's response, Paper No. 19, has been entered and carefully considered. However, Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### *Claim Rejections - 35 USC § 112*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 8 and 19 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 9-21 are further rejected for their dependency on claim 8.

With regard to claim 8, the Applicant argues that the recitation of structurally quantifying a low level of hairiness using a Zweigle T690 Hairiness tester clearly meets the requirements for 35 USC 112 second paragraph. The Examiner respectfully disagrees with this argument on the grounds that the Applicant has still failed to set forth the limitations that would produce said low level of hairiness. Merely reciting an article having a desirable physical property based on a proprietary test standard said to be measurable and reproducible is not enough evidence to patentably distinguish the final product structure of the prior art and the instant invention. Recall, Ex parte Slob, 157 USPQ 172 states the following with regard to an article claimed by defining property values:

Claims merely setting forth physical characteristics desired in article, and not setting forth specific compositions which would meet such characteristics, are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which

Art Unit: 1771

might be discovered in future and which would impart desired characteristics, thus, expression "a liquefiable substance having a liquefaction temperature from 40°C. to about 300°C. and being compatible with the ingredients in the powdered detergent composition" is too broad and indefinite since it purports to cover everything which will perform the desired functions regardless of its composition, and in effect, recites compositions by what it is desired that they do rather than what they are; expression also is too broad since it appears to read upon materials that could not possibly be used to accomplish purposes intended.

Thus, claim 8 is indefinite for the lack of recitation to the chemical and structural features that produce the claimed hairiness value.

With regard to claim 19, the Applicant argues that one of ordinary skilled in the art would appreciate the meaning of yarn bundles of loosened fibers, which the Applicant further defines as a yarn bundle which has at least some of its fibers loosened (e.g., such as by pulling them outwardly to some extent from the bundles). This argument is not found persuasive because as recited it is unclear to the examiner what is meant by "bundles of loosened fibers". Specifically, "bundles of loosened fibers" can also be interpreted as untwisted yarn.

#### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 7-9, 11, 12, and 14-19 stand rejected under 102 (b) as being anticipated by Rock et al., US 5,547,733.

Applicant argues Rock et al., fails to teach using a microfinishing film to abrade the surface. The Applicant further asserts that the fabrics of Rock et al., which are sanded in a conventional manner tend to have a high amount of fuzz and therefore do not meet the hairiness levels of the instant invention. However, the Examiner maintains that the method limitation of

Art Unit: 1771

abrading the surface with a microfinishing film is not given patentable weight at this time. Presently, the only evidence to support the claim that the instant invention is materially different from the prior art is the hairiness measurement provided by the Applicant's proprietary testing methods. Specifically, the Applicant recites a process limitation of abrading with a microfinishing film which claims to produce a product having a lower hairiness (i.e., less than "about .1") when measured using the Zweigle T690 Hairiness tester. However, Applicant's own disclosure teaches that conventional sanding also provides hairiness values of about .1. The Applicant has failed to disclose what the range of less than "about .1" would encompass as well as the units of incremental resolution (See Table 1, Page 11, Applicant's specification). Without such limitations, the Examiner concludes arbitrarily that values  $\pm .1$  would be meet the limitation of less than about .1. Thus, the Examiner fails to see a patentably distinguishable difference between the prior art and the instant invention.

***Claim Rejections - 35 USC § 102/103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 8 and 21 stand rejected under 35 U.S.C. 102(b)/103(a) as being unpatentable Rock et al., US 5,547,733.

Applicant asserts that the hairiness values would not be inherent to the invention Rock et al., since the fabrics are conventionally sanded. This argument is not found persuasive since the method limitation of abrading the fabric surface with a microfinishing film is not given patentable weight at this time. As such, said claims stand rejected for reasons set forth in section 11 of last Office Action and no new arguments have been presented.

***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 10, 13, 15 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rock et al., US 5,547,733 as applied to claim 8 above, and further in view of Moore, US T962, 002 as set forth in section 10 of the last Office Action. No new arguments have been presented.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

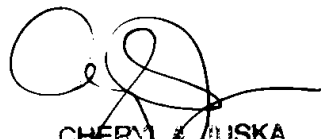
Art Unit: 1771

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls 

April 6, 2003

  
CHERYL A. HUSKA  
PRIMARY EXAMINER